

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1016

**Citations Affected:** IC 7.1-1-3-44; IC 7.1-2-3-16; IC 7.1-3; IC 7.1-4; IC 7.1-5-11-1.5; IC 7.1-5-11-15; IC 7.1-3-12-6.

**Synopsis:** Alcohol and tobacco matters. Conference committee report for EHB 1016. Requires a person who trains: (1) alcohol servers; and (2) individuals who plan to train alcohol servers; to hold a trainer certificate issued by the alcohol and tobacco commission (ATC). Requires: (1) a certified trainer to renew a certificate every three years by filing a renewal application form, completing a refresher course, and paying a \$45 fee; (2) certain retailer permittees, dealer permittees, or management representatives of the retailer or dealer permittees to be trained not later than 120 days after the date the permittee receives a permit; and (3) certain retailer permittees and dealer permittees to ensure that each alcohol server is trained not later than 120 days from the date the alcohol server begins employment. (Current law requires a retail permittee, dealer permittee, or management representative to be trained not later than 90 days after the date the permittee receives the permit and an alcohol server to be trained not later than 90 days after the date of employment.) Requires: (1) the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits; (2) the ATC to approve and establish training programs; and (3) training programs to provide a server certificate to individuals who successfully complete the program. Allows the ATC to: (1) observe training at any time; and (2) adopt rules to carry out the training and certification requirements. Changes the deadline by which permittees and alcohol servers must be trained from January 31, 2008, to January 1, 2009. Provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the ATC or the law. Requires the ATC to issue a permit to the state fair commission. Allows for extended time for alcohol sales on New Year's Eve if New Year's Eve falls on a Sunday. Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (1) the first conviction occurred less than ten years before the date of the permit application; and (2) the individual completed the sentence for the second conviction less than two years before the permit application. Provides: (1) that if an individual has at least three convictions for operating while intoxicated in the immediately preceding ten years, the ATC may not grant a permit to the individual; (2) that if an individual has one or two convictions in the immediately preceding ten years, the ATC may grant or deny a permit to the individual; and (3) for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. Allows for five new alcoholic permits within a district in an economic development area with a unit of the

National Park Service partially located within the district, and with an international deep water seaport located within the district. Requires the ATC to conduct an auction of the permits. Redefines "farm winery". Allows a farm winery to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a not-for-profit basis. Allows a farm winery to offer wine tastings and sell the winery's wine at three locations apart from the winery. Increases to 30 days (from nine days) the amount of time in a calendar year during which a farm winery may participate in a trade show or exposition. Provides that a wine manufacturer located inside or outside Indiana that wants to sell wine directly to a consumer must obtain a direct wine seller's permit. Establishes an annual direct wine seller's permit fee of \$100. Makes it a Class A infraction for violating the direct wine shipping statutes and increases the penalty to a Class A misdemeanor or Class D felony if the seller has prior unrelated offenses. Establishes a wine wholesaler permit fee for a wholesaler that sells less than 12,000 gallons of wine and brandy annually. Prohibits the holder of a farm winery distiller's permit from selling brandy at wholesale and specifies that the holder may sell brandy only at retail on the permitted premises. Allows a person to bring 18 liters of wine into Indiana for personal use. Provides that any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages. Removes residency requirements for wine and beer wholesalers. Allows farm winery brandy distiller permittees to: (1) sell brandy to consumers by the glass, bottle, or both; and (2) conduct business at three additional locations apart from the distillery. Repeals provisions concerning: (1) certain certification requirements; and (2) an affidavit requirement for a holder of a farm winery permit. **(This conference committee report does the following: (1) Removes the provisions concerning courts and court officers. (2) Requires a person who trains: (A) alcohol servers; and (B) individuals who plan to train alcohol servers; to hold a trainer certificate issued by the alcohol and tobacco commission (ATC). (3) Requires: (A) a certified trainer to renew a certificate every three years by filing a renewal application form, completing a refresher course, and paying a \$45 fee; (B) certain retailer permittees, dealer permittees, or management representatives of the retailer or dealer permittees to be trained not later than 120 days after the date the permittee receives a permit; and (C) certain retailer permittees and dealer permittees to ensure that each alcohol server is trained not later than 120 days from the date the alcohol server begins employment. (Current law requires a retail permittee, dealer permittee, or management representative to be trained not later than 90 days after the date the permittee receives the permit and an alcohol server to be trained not later than 90 days after the date of employment.) (4) Requires: (A) the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits; (B) the ATC to approve and establish training programs; and (C) training programs to provide a server certificate to individuals who successfully complete the program. (5) Allows the ATC to: (A) observe training at any time; and (B) adopt rules to carry out the training and certification requirements. (6) Changes the deadline by which permittees and alcohol servers must be trained from January 31, 2008, to January 1, 2009. Provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the ATC or the law. (7) Requires the ATC to issue a permit to the state fair commission. (8) Allows for extended time for alcohol sales on New Year's Eve if New Year's Eve falls on a Sunday. (9) Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (A) the first conviction occurred less than ten years before the date of the permit application; and (B) the individual completed the sentence for the second conviction less than two years before the permit application. (10) Provides: (A) that if an individual has at least three convictions for operating while intoxicated in the immediately preceding ten years, the ATC may not grant a permit to the individual; (B) that if an individual has one or two convictions in the immediately preceding ten years, the ATC may grant or deny a permit to an individual; and (C) for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. (11) Allows for five new alcoholic permits within a district in an economic development area with a unit of the National Park Service partially located within the district and with an international deep water seaport located within the district and requires the ATC to conduct an auction of the permits. (12) Redefines "farm winery". (13) Allows a farm winery**

to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a not-for-profit basis. (14) Allows a farm winery to offer wine tastings and sell the winery's wine at three locations apart from the winery. (15) Increases to 30 days (from nine days) the amount of time in a calendar year during which a farm winery may participate in a trade show or exposition. (16) Provides that a wine manufacturer located inside or outside Indiana that wants to sell wine directly to a consumer must obtain a direct wine seller's permit. (17) Establishes an annual direct wine seller's permit fee of \$100. (18) Makes it a Class A infraction for violating the direct wine shipping statutes and increases the penalty to a Class A misdemeanor or Class D felony if the seller has prior unrelated offenses. (19) Establishes a wine wholesaler permit fee for a wholesaler that sells less than 12,000 gallons of wine and brandy annually. (20) Prohibits the holder of a farm winery distiller's permit from selling brandy at wholesale and specifies that the holder may sell brandy only at retail on the permitted premises. (21) Allows a person to bring 18 liters of wine into Indiana for personal use. (22) Provides that any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages. (23) Removes residency requirements for wine and beer wholesalers. (24) Allows farm winery brandy distiller permittees to: (A) sell brandy to consumers by the glass, bottle, or both; and (B) conduct business at three additional locations apart from the distillery. (25) Repeals provisions concerning: (A) certain certification requirements; and (B) an affidavit requirement for a holder of a farm winery permit.)

**Effective:** Upon passage; July 1, 2006.

Adopted

Rejected

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1016 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 alcohol and tobacco.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 7.1-1-3-44 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. The term "farm
- 7 winery" means a commercial winemaking establishment that produces
- 8 wine ~~from products allowed by~~ and meets the requirements of
- 9 IC 7.1-3-12-4.
- 10 SECTION 2. IC 7.1-2-3-16 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) The
- 12 commission shall have the power to regulate and prohibit advertising,
- 13 signs, displays, posters, and designs intended to advertise an alcoholic
- 14 beverage or the place where alcoholic beverages are sold.
- 15 (b) The commission shall not exercise the prohibition power
- 16 contained in subsection (a), as to any advertisement appearing in a
- 17 newspaper which:
- 18 (1) is published at least once a week;
- 19 (2) regularly publishes information of current news interest to the
- 20 community; and
- 21 (3) circulates generally to the public in any part of this state,
- 22 regardless of where printed.
- 23 However, a newspaper shall not include publications devoted to special

interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title.** It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. **Unless otherwise stated, when a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.**

(g) The commission may not prohibit the advertisement of:

(1) alcoholic beverages; or

(2) a place where alcoholic beverages may be obtained;

in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

**(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.**

SECTION 4. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

(1) A consolidated city or its county.

(2) A city of the second class.

(3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic

beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that

~~(1) has a population of:~~

~~(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or~~

~~(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and~~

~~(2) owns a golf course~~

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).

(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 5. IC 7.1-3-1.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.2. As used in this chapter, "applicant" means a person who applies for a trainer certificate under this chapter to train:**

**(1) alcohol servers; and**

**(2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcoholic beverages.**

SECTION 6. IC 7.1-3-1.5-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.3. As used in this chapter, "certified trainer" means a person who is issued a trainer certificate under section 4.6 of this chapter.**

SECTION 7. IC 7.1-3-1.5-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. As used in this chapter, "server certificate" means a certificate issued by the commission under this chapter to an individual who completes a program established or approved under section 6 of this chapter.**

SECTION 8. IC 7.1-3-1.5-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.4. As used in this chapter, "trainer certificate" means a certificate issued by the commission under this chapter to an applicant who meets the requirements under section 4.6 of this chapter.**

SECTION 9. IC 7.1-3-1.5-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:**

**(1) files the application and pays the fees established by the commission under section 5 of this chapter;**

**(2) completes a program established or approved under section 6 of this chapter; and**

**(3) meets the requirements under this chapter and rules adopted by the commission.**

SECTION 10. IC 7.1-3-1.5-4.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2006]: **Sec. 4.8. A certified trainer may train:**

**(1) alcohol servers; and**

**(2) individuals who plan to become certified trainers;**

**on the selling, serving, and consumption of alcoholic beverages.**

SECTION 11. IC 7.1-3-1.5-5, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. ~~(a)~~ The commission shall adopt rules under IC 4-22-2 to establish:

(1) an application form;

(2) standards; and

(3) fees;

for certification of a program under this chapter.

~~(b) The commission shall adopt rules under IC 4-22-2 to otherwise carry out this chapter.~~

SECTION 12. IC 7.1-3-1.5-6, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The commission shall require the following standards for certification of a program under this chapter: **(a) The commission shall:**

**(1) establish a program; and**

**(2) approve a program established by a third party that meets the requirements of this chapter;**

**that is designed to educate alcohol servers and individuals who plan to become certified trainers on the selling, serving, and consumption of alcoholic beverages.**

**(b) A program established or approved under subsection (a) must include the following:**

(1) Training by an instructor who:

**(A) has knowledge in the subject areas described in this section; and**

**(B) is a certified trainer under this chapter.**

(2) Information on specific subject areas as required by the commission.

(3) A minimum of at least two (2) hours of training to complete the program.

(4) Information on:

(A) state laws and rules regarding the sale and service of alcoholic beverages;

(B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;

(C) the effects of alcohol:

(i) when taken with commonly used prescription and nonprescription drugs; and

(ii) on human behavior;

(D) methods of:

(i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and

(ii) handling situations involving an underage or intoxicated person;

(E) methods for properly and effectively:

- (i) checking the identification of an individual;
- (ii) identifying an illegal identification of an individual; and
- (iii) handling situations involving individuals who have provided illegal identification;
- (F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and
- (G) recognizing certain behavior to assess the amount of alcohol an individual:
- (i) has consumed; and
- (ii) may safely consume.

(5) One (1) or both of the following:

- (A) A written test.
- (B) An oral test.

SECTION 13. IC 7.1-3-1.5-8, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A **trainer** certificate issued under this chapter expires at a time and date designated by the commission: **three (3) years after the date the trainer certificate was issued.**

(b) The commission shall adopt rules to establish:

- (1) an application form; and
- (2) fees;

for the renewal of a certificate under this chapter:

(c) (b) The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate. The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the commission, the certificate holder is not subject to a sanction for failure to renew if, once notice is received from the commission, the certificate is renewed within forty-five (45) days after the receipt of the notice: **notify a:**

- (1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and
- (2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

**of the renewal requirements for a trainer certificate under this chapter.**

SECTION 14. IC 7.1-3-1.5-9, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. To renew a **trainer** certificate under this chapter, the ~~certificate holder~~ **certified trainer** must:

- (1) file the renewal application established and provided by the commission; ~~and~~
- (2) pay ~~the~~ a renewal fee in the amount established by the ~~commission; of forty-five dollars (\$45); and~~
- (3) **complete a refresher course established or approved by the commission;**

not later than the expiration date of the **trainer** certificate.

SECTION 15. IC 7.1-3-1.5-12, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. A person who ~~operates a program~~ **trains:**

- (1) **alcohol servers; or**

**(2) individuals who plan to become certified trainers;**

without a **trainer** certificate under this chapter commits a Class B infraction.

SECTION 16. IC 7.1-3-1.5-13, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a program ~~certified under this established or approved under section 6 of this~~ chapter not later than ~~ninety (90)~~ **one hundred twenty (120)** days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 6 of this chapter ~~as required by the commission~~; **every three (3) years after the date the alcohol server completes a program**; and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, ~~or a dealer permittee, or a management representative of a retailer or dealer permittee~~ must complete a program ~~certified under established or approved under section 6 of~~ this chapter:

(1) not later than ~~ninety (90)~~ **one hundred twenty (120)** days after the date:

~~(1)~~ **(A)** the dealer permittee is issued a permit described in section 2 of this chapter; or

~~(2)~~ **(B)** the retailer permittee is issued a permit described in section 4 of this chapter; **and**

**(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a program.**

**(c) The commission shall notify a:**

**(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and**

**(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;**

**of the requirements under subsections (a) and (b).**

~~(c)~~ **(d)** The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 17. IC 7.1-3-1.5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. A program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the program.**

SECTION 18. IC 7.1-3-1.5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. The commission may attend and observe training by a certified trainer under a program**

established or approved under section 6 of this chapter at any time.

SECTION 19. IC 7.1-3-1.5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall adopt rules under IC 4-22-2 to carry out this chapter.**

SECTION 20. IC 7.1-3-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The holder of a farm winery brandy distiller's permit may do the following:

- (1) Manufacture brandy.
- (2) Rectify brandy.
- (3) Bottle brandy.
- (4) Use brandy that it has manufactured for the purpose of producing fortified wine.
- (5) Sell, transport, and deliver brandy that it has manufactured to other wineries.
- (6) Sell brandy at wholesale or retail on the permitted premises to consumers by the glass or by the bottle, or both, brandy that it has manufactured.

**(b) Upon the approval of the commission, a holder of a farm winery brandy distiller's permit under this chapter may conduct business at not more than three (3) additional locations that are separate from the farm winery brandy distillery. At the additional locations, the holder of the permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of brandy.**

SECTION 21. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The commission may issue a farm winery permit to a person who:

- (1) is the proprietor of a farm winery; ~~and who~~
- (2) desires to commercially manufacture wine; ~~and~~
- (3) is either:
  - (A) an individual; or
  - (B) a partnership, limited liability company, or corporation domiciled in or admitted to do business in Indiana.

A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter. ~~The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.~~

SECTION 22. IC 7.1-3-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~(a)~~ In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment

- ~~(1) must produce wine from grapes, other fruits, or honey produced in this state; and~~
- ~~(2) shall not annually produce sell more than five hundred thousand (500,000) gallons of wine in Indiana, excluding wine shipped to an out-of-state address.~~

~~(b) Table wine that is shipped by the winery outside the state and that involves a change of ownership may not be considered as part of the~~

winery's annual production for purposes of subsection (a)(2):

SECTION 23. IC 7.1-3-12-5, AS AMENDED BY P.L.224-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:

(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;

(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises **or an outside area that is contiguous to the licensed premises as approved by the commission if each employee who serves wine on the licensed premises:**

**(A) holds an employee permit under IC 7.1-3-18-9; and**

**(B) completes a server training program approved by the commission;**

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

**(4) is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;**

~~(4)~~ **(5)** is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at ~~either~~ wholesale; ~~or retail~~;

~~(5)~~ **(6)** is exempt from the provisions of IC 7.1-3-14;

~~(6)~~ **(7)** is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;

~~(7)~~ **(8)** for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises;

~~(8)~~ **(9)** is entitled to purchase and sell bulk wine as set forth in this chapter; ~~and~~

~~(9)~~ **(10)** is entitled to sell wine as authorized by this section for carryout on Sunday; **and**

**(11) is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.**

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at ~~a second location~~ **not more than three (3) additional locations** that ~~is~~ **are** separate from the winery. At the ~~second location~~, **additional locations**, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than ~~nine (9)~~ **thirty (30)** days in a calendar year.

SECTION 24. IC 7.1-3-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. **(a)** All

premises to be used by an applicant for a wine wholesaler's permit must be described in the application for the permit and in the permit, if the permit is issued. A wine wholesaler may not keep or store wine at any place other than the premises described in the wine wholesaler's application and permit. A person who holds a wine wholesaler's permit and who also holds a beer wholesaler's permit is not disqualified from using multiple premises for the storage of wine because the person holds a beer wholesaler's permit. **The holder of a wine wholesaler's permit issued under IC 7.1-4-4.1-13(c) may enter into an agreement to:**

**(1) locate the wine wholesaler's business within the licensed premises of a farm winery or a farm winery brandy distiller; or**

**(2) use goods and services provided by a farm winery or a farm winery brandy distiller;**

**or both.**

**(b) A direct wine seller under IC 7.1-3-26 is not considered an affiliate of a wine wholesaler for purposes of IC 7.1-3-26-7(9) for an agreement under this section.**

SECTION 25. IC 7.1-3-13-3, AS AMENDED BY P.L.224-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, or a liquor dealer's permit. ~~A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time.~~ **A holder of a wine wholesaler's permit may sell wine to the wine wholesaler's bona fide regular employees.**

(b) As used in this section, "brandy" means:

(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or

(2) a beverage product that:

(A) is prepared from a liquid described in subdivision (1);

(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).

(ii) The product's label makes no reference to any distilled spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

SECTION 26. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:

(1) a clerk in a package liquor store;

(2) **an employee who serves wine at a farm winery; or as**

(3) a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

(1) the sole proprietor;

(2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;

(3) a member of a limited liability company that owns the business establishment; or

(4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) ~~An applicant is not entitled to~~ **The commission may not issue an** employee's permit ~~if: (1) the~~ **to an applicant while the applicant** is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

~~(2) the~~

(g) **The commission may not issue an employee's permit to an** applicant ~~who has more than one (1) but less than three (3)~~ **two (2)** unrelated convictions for operating while intoxicated ~~and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated, including any term of probation or parole; or if:~~

**(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and**

**(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.**

~~(3) the~~

(h) **If an applicant for an employee's permit** has at least three (3) unrelated convictions for operating while intoxicated ~~in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:~~

**(1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or**

**(2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);**

**the commission may grant or deny the issuance of a permit.**

~~(g)~~ (i) The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee ~~becomes ineligible for the issuance of an employee's permit under subsection (f):~~ **is convicted of operating while intoxicated after the issuance of the permit.**

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

SECTION 27. IC 7.1-3-20-16, AS AMENDED BY P.L.155-2005, SECTION 1, AS AMENDED BY P.L.214-2005, SECTION 48, AND AS AMENDED BY P.L.224-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and



deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) *After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:*

(1) *The district has been listed in the National Register of Historic*

1 *Places maintained under the National Historic Preservation Act of*  
 2 *1966, as amended.*

3 *(2) A county courthouse is located within the district.*

4 *(3) A historic opera house listed on the National Register of*  
 5 *Historic Places is located within the district.*

6 *(4) A historic jail and sheriff's house listed on the National Register*  
 7 *of Historic Places is located within the district.*

8 *The legislative body of the municipality in which the district is located*  
 9 *shall recommend to the commission sites that are eligible to be permit*  
 10 *premises. The commission shall consider, but is not required to follow,*  
 11 *the municipal legislative body's recommendation in issuing a permit*  
 12 *under this subsection. An applicant is not eligible for a permit if, less*  
 13 *than two (2) years before the date of the application, the applicant sold*  
 14 *a retailer's permit that was subject to IC 7.1-3-22 and that was for*  
 15 *premises located within the district described in this section or within*  
 16 *five hundred (500) feet of the district. A permit issued under this*  
 17 *subsection shall not be transferred. The cost of an initial permit issued*  
 18 *under this subsection is six thousand dollars (\$6,000).*

19 ~~(g)~~ **(h)** *The commission may issue a three-way permit for the sale of*  
 20 *alcoholic beverages for on premises consumption to an applicant who*  
 21 *will locate as the proprietor, as owner or lessee, or both, of a*  
 22 *restaurant within an economic development area under IC 36-7-14 in:*

23 *(1) a town with a population of more than twenty thousand*  
 24 *(20,000); or*

25 *(2) a city with a population of more than twenty-seven thousand*  
 26 *(27,000) but less than twenty-seven thousand four hundred*  
 27 *(27,400);*

28 *located in a county having a population of more than ninety thousand*  
 29 *(90,000) but less than one hundred thousand (100,000). The*  
 30 *commission may issue not more than five (5) licenses under this section*  
 31 *to premises within a municipality described in subdivision (1) and not*  
 32 *more than five (5) licenses to premises within a municipality described*  
 33 *in subdivision (2). The commission shall conduct an auction of the*  
 34 *permits under IC 7.1-3-22-9, except that the auction may be conducted*  
 35 *at any time as determined by the commission. Notwithstanding any*  
 36 *other law, the minimum bid for an initial license under this subsection*  
 37 *is thirty-five thousand dollars (\$35,000), and the renewal fee for a*  
 38 *license under this subsection is one thousand three hundred fifty dollars*  
 39 *(\$1,350). Before the district expires, a permit issued under this*  
 40 *subsection may not be transferred. After the district expires, a permit*  
 41 *issued under this subsection may be renewed, and the ownership of the*  
 42 *permit may be transferred, but the permit may not be transferred from*  
 43 *the permit premises.*

44 **(i) After June 30, 2006, the commission may issue not more than**  
 45 **five (5) new three-way, two-way, or one-way permits to sell**  
 46 **alcoholic beverages for on-premises consumption to applicants,**  
 47 **each of whom must be the proprietor, as owner or lessee, or both,**  
 48 **of a restaurant located within a district, or not more than five**  
 49 **hundred (500) feet from a district, that meets all of the following**  
 50 **requirements:**

51 **(1) The district is within an economic development area, an**

1 area needing redevelopment, or a redevelopment district as  
2 established under IC 36-7-14.

3 (2) A unit of the National Park Service is partially located  
4 within the district.

5 (3) An international deep water seaport is located within the  
6 district.

7 An applicant is not eligible for a permit under this subsection if,  
8 less than two (2) years before the date of the application, the  
9 applicant sold a retailers' permit that was subject to IC 7.1-3-22  
10 and that was for premises located within the district described in  
11 this subsection or within five hundred (500) feet of the district. A  
12 permit issued under this subsection may not be transferred. If the  
13 commission issues five (5) new permits under this subsection, and  
14 a permit issued under this subsection is later revoked or is not  
15 renewed, the commission may issue another new permit, as long as  
16 the total number of active permits issued under this subsection does  
17 not exceed five (5) at any time. The commission shall conduct an  
18 auction of the permits under IC 7.1-3-22-9, except that the auction  
19 may be conducted at any time as determined by the commission.

20 SECTION 28. IC 7.1-3-21-3 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~(a)~~ The  
22 commission shall not issue:

23 (1) an alcoholic beverage retailer's or dealer's permit of any type;  
24 or

25 (2) a ~~wine wholesaler's~~ or liquor wholesaler's permit;

26 to a person who has not been a continuous and bona fide resident of  
27 Indiana for five (5) years immediately preceding the date of the  
28 application for a permit.

29 ~~(b) The commission shall not issue a beer wholesaler's permit to a~~  
30 ~~person who has not been a continuous and bona fide resident of Indiana~~  
31 ~~for one (1) year.~~

32 SECTION 29. IC 7.1-3-21-4 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The commission  
34 shall not issue: ~~an alcoholic beverage~~

35 (1) a liquor wholesaler's permit; or

36 (2) an alcoholic beverage retailer's or dealer's permit;

37 of any type to a partnership unless each member of the partnership  
38 possesses the same qualifications as those required of an individual  
39 applicant for that particular type of permit.

40 SECTION 30. IC 7.1-3-21-5 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The  
42 commission shall not issue:

43 (1) an alcoholic beverage retailer's or dealer's permit of any type;  
44 or

45 (2) a ~~wine wholesaler's~~ or liquor wholesaler's permit;

46 to a corporation unless sixty percent (60%) of the outstanding common  
47 stock is owned by persons who have been continuous and bona fide  
48 residents of Indiana for five (5) years.

49 ~~(b) The commission shall not issue a beer wholesaler's permit to a~~  
50 ~~corporation unless at least sixty percent (60%) of the outstanding~~  
51 ~~common stock is owned by persons who have been continuous and~~

bona fide residents of Indiana for one (1) year:

~~(c)~~ (b) The commission shall not issue a liquor wholesaler's permit to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

~~(d)~~ (c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 31. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.2. (a) The commission shall not issue:

(1) an alcoholic beverage retailer's or dealer's permit of any type;

or

(2) a ~~wine wholesaler's~~ or liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

~~(b) The commission shall not issue a beer wholesaler's permit to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.~~

~~(c)~~ (b) The commission shall not issue a liquor wholesaler's permit to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

~~(d)~~ (c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 32. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage retailer's or dealer's permit of any type;

or

(2) a ~~wine wholesaler's~~ or liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

~~(b) The commission shall not issue a beer wholesaler's permit to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.~~

~~(c)~~ (b) The commission shall not issue a liquor wholesaler's permit to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

~~(d)~~ (c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 33. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~Indiana State Fair.~~ (a) The commission shall ~~not~~ issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds ~~during the period of the Indiana State Fair.~~ **to the Indiana state fair commission.**

(b) The holder of a permit under this section is:

- (1) entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;
- (2) entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
- (3) entitled to receive the permit directly from the commission without local board approval;
- (4) not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) entitled to allow a minor to be present in the places where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1.

SECTION 34. IC 7.1-3-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 26. Direct Wine Seller's Permit**

**Sec. 1.** This chapter does not apply to the serving or selling of:

- (1) wine in accordance with IC 7.1-3-12; or
- (2) brandy in accordance with IC 7.1-3-7.5.

**Sec. 2.** As used in this chapter, "applicant" means a person that applies to the commission for a direct wine seller's permit.

**Sec. 3.** As used in this chapter, "consumer" means an individual with an Indiana address who purchases wine from a seller.

**Sec. 4.** As used in this chapter, "seller" means the holder of a direct wine seller's permit issued under this chapter.

**Sec. 5.** A person located within Indiana or outside Indiana that wants to sell and ship wine directly to a consumer must be the holder of a direct wine seller's permit and comply with this chapter.

**Sec. 6.** A seller may sell and ship wine directly only to a consumer who meets all of the following requirements:

- (1) The consumer is at least twenty-one (21) years of age.
- (2) The consumer has an Indiana address.
- (3) The consumer intends to use wine purchased under this

chapter for personal use only and not for resale or other commercial purposes.

(4) Except as provided in subdivision (5), the consumer has provided to the seller in one (1) initial face-to-face transaction at the seller's place of business appearing on the seller's application for a direct wine seller's permit or any locations authorized by IC 7.1-3-12-5 all the following:

(A) Name, telephone number, Indiana address, or consumer's Indiana business address.

(B) Proof of age by a state issued driver's license or state issued identification card showing the consumer to be at least twenty-one (21) years of age.

(C) A verified statement, made under penalties for perjury, that the consumer satisfies the requirements of subdivisions (1) through (3).

(5) If:

(A) before April 1, 2006, the consumer has engaged in a transaction with a seller in which the seller sold wine to the consumer and, after April 1, 2006, but before December 31, 2006, the consumer provides the seller with a verified statement, made under penalties for perjury, that the consumer is at least twenty-one (21) years of age; and

(B) the seller provides the name and Indiana address of the consumer to the commission before January 15, 2007;

the seller may sell directly to the consumer in accordance with this chapter.

Sec. 7. (a) The commission may issue a direct wine seller's permit to an applicant who meets all of the following requirements:

(1) The applicant is domiciled and has its principal place of business in the United States.

(2) The applicant is engaged in the manufacture of wine.

(3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine that is required:

(A) in Indiana or the state where the applicant is domiciled; and

(B) by the Tax and Trade Bureau of the United States Department of the Treasury.

(4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.

(5) The applicant files a surety bond with the commission in accordance with IC 7.1-3-1, or deposits cash in an escrow account with the commission, in the amount required of an applicant for a vintner's permit under IC 7.1-3-1-7.

(6) The applicant:

(A) does not hold a permit or license to wholesale alcoholic beverages issued by any authority; and

(B) is not owned in whole or in part or controlled by a person who holds a permit or license to wholesale alcoholic beverages.

(7) The applicant sells not more than five hundred thousand (500,000) gallons of wine per year in Indiana, excluding wine shipped to an out-of-state address.

(8) The applicant has not distributed wine through a wine wholesaler in Indiana within the one hundred twenty (120) days immediately preceding the applicant's initial application for a direct wine seller's permit or the applicant has operated as a farm winery under IC 7.1-3-12.

(9) The applicant is not the parent, subsidiary, or affiliate of another entity manufacturing any alcoholic beverage.

(10) The applicant completes documentation regarding the applicant's application required by the commission.

(b) The commission may issue a direct wine seller's permit to an applicant who:

(1) meets the requirements under subsection (a); and

(2) holds a permit issued under this title that allows the sale of an alcoholic beverage at retail.

Sec. 8. (a) The term of a direct wine seller's permit begins:

(1) the date approved by the commission for an initial application; and

(2) on July 1 to renew a permit;

and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is one hundred dollars (\$100).

Sec. 9. A direct wine seller's permit entitles a seller to sell and ship wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:

(A) The verification required by section 6(4) of this chapter in an initial face-to-face transaction.

(B) Notwithstanding clause (A), if the consumer provided the information specified in section 6(5)(A) of this chapter after April 1, 2006, but before December 31, 2006, and the seller provides the name and Indiana address of the consumer under section 6(5)(B) of this chapter to the commission before January 15, 2007, the consumer is not required to comply with section 6(4) of this chapter.

(2) The direct wine seller meets the following requirements:

(A) Maintains for two (2) years all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall:

(i) make the records available to the commission during the direct wine seller's regular business hours; or

(ii) at the direction of the commission, deliver copies to the commission.

(B) Stamps, prints, or labels on the outside of the shipping

container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.".

(C) Causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.

(D) Directs the carrier to verify that the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

Sec. 10. It is unlawful for the holder of a farm winery brandy distiller's permit to ship or cause to be shipped brandy produced under this title to a consumer.

Sec. 11. A consumer shall provide a direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, Indiana address, telephone number, and other information required by the commission.

Sec. 12. During a permit year, a direct wine seller may not direct ship in Indiana more than twenty-seven thousand (27,000) liters of wine.

Sec. 13. A wine shipment purchased under this chapter must be delivered to:

(1) the consumer, who shall take personal delivery of the shipment at the:

(A) consumer's residence;

(B) consumer's business address;

(C) carrier's business address; or

(D) address displayed on the shipping container; or

(2) an individual who is at least twenty-one (21) years of age, who shall take personal delivery of the shipment at the:

(A) consumer's residence;

(B) consumer's business address;

(C) carrier's business address; or

(D) address designated by the consumer and displayed on the shipping container.

Sec. 14. A consumer may not receive more than two hundred sixteen (216) liters of wine in total from one (1) or more direct wine sellers in a calendar year.

Sec. 15. (a) Except as provided in subsections (b) and (c), a seller who violates this chapter commits a Class A infraction.

(b) Except as provided in subsection (d), a seller who:

(1) knowingly or intentionally violates this chapter; and

(2) has one (1) prior unrelated conviction or judgment for an infraction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction;



commits a Class A misdemeanor.

(c) Except as provided in subsection (d), a seller who:

(1) knowingly or intentionally violates this chapter; and

(2) has at least two (2) prior unrelated convictions or judgments for infractions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction;

commits a Class D felony.

(d) A person who violates section 6(5) of this chapter commits a Class A infraction. The commission may consider an infraction committed under this subsection in its determination of whether to renew a seller's permit.

**Sec. 16. If a direct wine seller is charged under section 15 of this chapter with selling to a consumer who does not meet the requirements of section 6 of this chapter, it is a defense to the charge if the direct wine seller obtained from the consumer the verified statement required under section 6(4)(C) and 6(5)(A) of this chapter and produces a copy of the verified statement.**

SECTION 35. IC 7.1-4-4.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section applies to the following permits:

(1) Beer wholesaler's permit.

(2) Malt wholesaler's permit.

(3) Liquor wholesaler's permit.

(4) Wine wholesaler's permit.

(b) Except as provided in subsection (c), a permit fee of two thousand dollars (\$2,000) is annually imposed for the issuance of each of the permits described in subsection (a).

(c) A permit fee of one hundred dollars (\$100) is annually imposed for the issuance of a wine wholesaler's permit to a permit applicant who:

(1) has never previously held a wine wholesaler's permit and anticipates selling less than twelve thousand (12,000) gallons of wine and brandy in a year; or

(2) previously held a wine wholesaler's permit and certifies to the commission that the permit applicant sold less than twelve thousand (12,000) gallons of wine and brandy in the previous year.

SECTION 36. IC 7.1-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Power of Commission and Department.~~ The chairman and the department shall have the power to examine the books, papers, records, and premises of a manufacturer, wholesaler, retailer, or dealer, **or direct wine seller's permit holder** under this title for the purpose of determining whether the excise taxes imposed by this title have been paid fully and whether the provisions of the title are being complied with.

SECTION 37. IC 7.1-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Collection of Annual License Fees.~~ The chairman shall collect the required annual license fee paid in connection with the issuance of a brewer's permit, a

beer wholesaler's permit, a temporary beer permit, a dining car permit of any type, a boat permit of any type, a distiller's permit, a rectifier's permit, a liquor wholesaler's permit, a vintner's permit, a farm winery permit, a farm winery brandy distiller's permit, a wine wholesaler's permit, a wine bottler's permit, a temporary wine permit, **a direct wine seller's permit**, a salesman's permit, and a carrier's alcoholic permit.

SECTION 38. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) **Except as provided in IC 7.1-3-26**, it is unlawful for a person in the business of selling alcoholic beverages in ~~another state or country~~ **Indiana or outside Indiana** to ship or cause to be shipped an alcoholic beverage directly to ~~an Indiana resident~~ **a person in Indiana** who does not hold a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).

(b) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 39. IC 7.1-5-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~Transportation of Unowned Goods Limited~~. It is unlawful for a person to import or transport an alcoholic beverage that is not at that time the absolute property of an authorized permittee under this title. This section shall not apply to the shipment of an alcoholic beverage from another state in continuous transit through this state into another state unless the shipment is intended to evade a provision of this title. This section shall not prohibit a person, other than permittee, from bringing into this state a quantity of: ~~liquor or~~

(1) wine not exceeding ~~one (1) quart~~ **eighteen (18) liters**; or

(2) liquor not exceeding **one (1) quart**;

if ~~he~~ **the person** is a traveler in the ordinary course of travel and if it is not intended for sale to another person.

SECTION 40. IC 7.1-3-1.5-7 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 41. IC 7.1-3-12-6 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 42. P.L.161-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 4. (a) **As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.**

(b) **As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.**

~~(a)~~ (c) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

~~(b)~~ (d) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2. **as added by this act.**

(c) As used in this SECTION, "program" has the meaning set forth in ~~IC 7.1-3-1.5-3~~, **as added by this act.**

~~(d)~~ (e) As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4. ~~as added by this act.~~

(f) As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4.4, as added by this act.

~~(e)~~ (g) Notwithstanding IC 7.1-3-1.5-12, as added by this act, a person who is operating a program before July 1, 2005, training alcohol servers or individuals who plan to become certified trainers before July 1, 2006, may continue to operate the program train alcohol servers or individuals who plan to become certified trainers without a certificate issued under IC 7.1-3-1.5 as added by this act, pending the processing of an application for a trainer certificate under this SECTION.

~~(f)~~ (h) The person described in subsection ~~(e)~~ (g) may submit to the commission an application for a trainer certificate to operate a program under IC 7.1-3-1.5. ~~as added by this act.~~ To be entitled to continue operating training without a trainer certificate under subsection ~~(e)~~, (g), the person must submit the application before March 1, 2006: 2007.

~~(g)~~ (i) The person described in subsection ~~(e)~~ (g) shall cease operating a program training alcohol servers and individuals who plan to become certified trainers if:

(1) the person fails to submit an application within the time allowed under subsection ~~(f)~~; (h); or

(2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

~~(h)~~ (j) Notwithstanding IC 7.1-3-1.5-13: ~~as added by this act:~~

(1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program certified established or approved under ~~IC 7.1-3-1.5;~~ IC 7.1-3-1.5-6, as added amended by this act, not later than:

(A) January 1, 2008; 2009; or

(B) ninety ~~(90)~~ one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

whichever is later; and

(2) a retailer permittee, ~~or a dealer permittee,~~ or a management representative of a retailer or dealer permittee must complete a program certified established or approved under ~~IC 7.1-3-1.5;~~ IC 7.1-3-1.5-6, as added amended by this act, not later than:

(A) January 1, 2008; 2009; or

(B) ninety ~~(90)~~ one hundred twenty (120) days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-3;

whichever is later.

~~(i)~~ (k) This SECTION expires December 31, 2009: 2010.

SECTION 43. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) Notwithstanding IC 7.1-3-1.5, as amended by this act, a

1 person may be certified by the alcohol and tobacco commission to  
 2 train alcohol servers and individuals who plan to become certified  
 3 trainers without meeting the requirements under IC 7.1-3-1.5, as  
 4 amended by this act, before July 1, 2007.

5 (d) This SECTION expires January 1, 2008.

6 SECTION 44. [EFFECTIVE UPON PASSAGE] (a) The definitions  
 7 in IC 7.1-3-26, as added by this act, apply to this SECTION.

8 (b) Notwithstanding IC 7.1-3-26, as added by this act, an  
 9 applicant is considered to be operating under a valid direct wine  
 10 seller's permit authorized under IC 7.1-3-26, as added by this act,  
 11 on and after the date the applicant files an application for a direct  
 12 seller's permit, until the commission:

13 (1) grants a permit to an applicant as authorized under  
 14 IC 7.1-3-26, as added by this act; or

15 (2) denies a permit to an applicant as authorized under  
 16 IC 7.1-3-26, as added by this act.

17 (c) Notwithstanding IC 7.1-4-4.1-13(c), as amended by this act, a  
 18 wine wholesaler is considered to be operating under a valid wine  
 19 wholesaler's permit authorized under IC 7.1-4-4.1-13(c), as  
 20 amended by this act, on and after the date the wine wholesaler  
 21 applies for a wine wholesaler's permit under IC 7.1-4-4.1-13(c), as  
 22 amended by this act, until the commission:

23 (1) grants a permit to an applicant as authorized under  
 24 IC 7.1-4-4.1-13(c), as amended by this act; or

25 (2) denies a permit to an applicant as authorized under  
 26 IC 7.1-4-4.1-13(c), as amended by this act.

27 (d) This SECTION expires on May 15, 2007.

28 SECTION 45. An emergency is declared for this act.

(Reference is to EHB 1016 as reprinted February 22, 2006.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1016**

**S**igned by:

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Representative Ayres  
Chairperson

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Senator Bray

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Representative Cheney

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Senator Broden

**House Conferees**

**Senate Conferees**